

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Adler	Team: Squad #1	CCRB Case #: 202107329	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/16/2021 11:24 PM	Location of Incident: In front of 1292 Washington Avenue	Precinct: 42	18 Mo. SOL 5/16/2023	EO SOL 5/16/2023	
Date/Time CV Reported Wed, 11/17/2021 12:43 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/01/2021 11:00 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Anthony Saline	12924	962081	PBBX SU PST
2. PO Kieran Brennan	30990	965958	PBBX SU PST
3. SGT Erik Duran	01423	948476	PBBX SU PST
4. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.SGT Erik Duran	Abuse: Sergeant Erik Duran stopped § 87(2)(b)	
B.PO Anthony Saline	Abuse: Police Officer Anthony Saline stopped § 87(2)(b)	
C.PO Kieran Brennan	Abuse: Police Officer Kieran Brennan stopped § 87(2)(b)	
D.SGT Erik Duran	Abuse: Sergeant Erik Duran failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
E.PO Kieran Brennan	Abuse: Police Officer Kieran Brennan failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
F.PO Anthony Saline	Abuse: Police Officer Anthony Saline failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
G.PO Anthony Saline	Discourtesy: Police Officer Anthony Saline spoke discourteously to § 87(2)(b)	
H.PO Anthony Saline	Abuse: Police Officer Anthony Saline frisked § 87(2)(b)	
I.SGT Erik Duran	Abuse: Sergeant Erik Duran frisked § 87(2)(b)	
J.PO Kieran Brennan	Abuse: Police Officer Kieran Brennan frisked § 87(2)(b)	
K.PO Kieran Brennan	Abuse: Police Officer Kieran Brennan searched § 87(2)(b)	
L. An officer	Abuse: An officer searched § 87(2)(b)	
M.SGT Erik Duran	Abuse: Sergeant Erik Duran refused to provide his shield number to § 87(2)(b)	
N.SGT Erik Duran	Abuse: Sergeant Erik Duran refused to provide his name to § 87(2)(b)	
O.PO Anthony Saline	Abuse: Police Officer Anthony Saline refused to provide his shield number to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
P.PO Anthony Saline	Abuse: Police Officer Anthony Saline refused to provide his name to § 87(2)(b)	
Q.PO Kieran Brennan	Abuse: Police Officer Kieran Brennan refused to provide his shield number to § 87(2)(b)	
R.PO Kieran Brennan	Abuse: Police Officer Kieran Brennan refused to provide his name to § 87(2)(b)	
S.SGT Erik Duran	Abuse: Sergeant Erik Duran failed to provide § 87(2)(b) with a business card.	
T.PO Anthony Saline	Abuse: Police Officer Anthony Saline failed to provide § 87(2)(b) with a business card.	
U.PO Kieran Brennan	Abuse: Police Officer Kieran Brennan failed to provide § 87(2)(b) with a business card.	

## Case Summary

On November 17, 2021, § 87(2)(b) filed this complaint over the phone with IAB on behalf of her 33-year-old son § 87(2)(b) generating original log #2021-25853. The CCRB received the complaint on December 1, 2021.

On November 16, 2021, at approximately 11:24 P.M., Sgt. Erik Duran, PO Anthony Saline, and PO Kieran Brennan, all assigned to Patrol Borough Bronx (PBBX), stopped § 87(2)(b) at the corner of East 169<sup>th</sup> Street and Washington Avenue in the Bronx and failed to explain the reason for the stop (**Allegations A, B, C, D, E, and F, Abuse of Authority:** § 87(2)(g) PO Saline called § 87(2)(b) a “fucking dickhead,” (**Allegation G, Discourtesy:** § 87(2)(g) PO Saline, Sgt. Duran, and PO Brennan then frisked § 87(2)(b) (**Allegations H, I, and J, Abuse of Authority:** § 87(2)(g) PO Brennan and an officer entered § 87(2)(b) s pockets (**Allegation K, Abuse of Authority:** § 87(2)(g) and **Allegation L, Abuse of Authority:** § 87(2)(g)). Sgt. Duran, PO Saline, and PO Brennan refused to provide § 87(2)(b) with their shield numbers and names and failed to provide him with their business cards (**Allegations M, N, O, P, Q, R, S, T, and U, Abuse of Authority:** § 87(2)(g)).

No arrests were made and no summonses were issued in relation to this incident. The investigation did not obtain video footage of the incident.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Erik Duran stopped § 87(2)(b)**  
**Allegation (B) Abuse of Authority: Police Officer Anthony Saline stopped § 87(2)(b)**  
**Allegation (C) Abuse of Authority: Police Officer Kieran Brennan stopped § 87(2)(b)**  
**Allegation (D) Abuse of Authority: Sergeant Erik Duran failed to explain to § 87(2)(b) the reason for a law enforcement activity.**  
**Allegation (E) Abuse of Authority: Police Officer Kieran Brennan failed to explain to § 87(2)(b) the reason for a law enforcement activity.**  
**Allegation (F) Abuse of Authority: Police Officer Anthony Saline failed to explain to § 87(2)(b) the reason for a law enforcement activity.**  
**Allegation (G) Discourtesy: Police Officer Anthony Saline spoke discourteously to § 87(2)(b)**  
**Allegation (H) Abuse of Authority: Police Officer Anthony Saline frisked § 87(2)(b)**  
**Allegation (I) Abuse of Authority: Sergeant Erik Duran frisked § 87(2)(b)**  
**Allegation (J) Abuse of Authority: Police Officer Kieran Brennan frisked § 87(2)(b)**  
**Allegation (K) Abuse of Authority: Police Officer Kieran Brennan searched § 87(2)(b)**  
**Allegation (L) Abuse of Authority: An officer searched § 87(2)(b)**  
**Allegation (M) Abuse of Authority: Sergeant Erik Duran refused to provide his shield number to § 87(2)(b)**  
**Allegation (N) Abuse of Authority: Sergeant Erik Duran refused to provide his name to § 87(2)(b)**  
**Allegation (O) Abuse of Authority: Police Officer Anthony Saline refused to provide his shield number to § 87(2)(b)**  
**Allegation (P) Abuse of Authority: Police Officer Anthony Saline refused to provide his name to § 87(2)(b)**  
**Allegation (Q) Abuse of Authority: Police Officer Kieran Brennan refused to provide his shield number to § 87(2)(b)**  
**Allegation (R) Abuse of Authority: Police Officer Kieran Brennan refused to provide his name to § 87(2)(b)**

**Allegation (S) Abuse of Authority: Sergeant Erik Duran failed to provide § 87(2)(b) with a business card.**

**Allegation (T) Abuse of Authority: Police Officer Anthony Saline failed to provide § 87(2)(b) with a business card.**

**Allegation (U) Abuse of Authority: Police Officer Kieran Brennan failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) testified that at approximately 11:24 P.M on November 16, 2021, he was walking from his home at § 87(2)(b) in the Bronx to J&R Super Deli, located at 1292 Washington Avenue, on the southwest corner of East 169<sup>th</sup> Street and Washington Avenue **(01 Board Review)**. He was wearing a zipped-up jacket with two side pockets over a hoodie and dark colored jeans with four pockets. All his pockets were empty except for his front left pants pocket, which contained a slim cardholder wallet. As § 87(2)(b) crossed Washington Avenue, an unmarked black Ford sedan turned left onto Washington Avenue from East 169<sup>th</sup> Street and stopped in the middle of the intersection, between § 87(2)(b) and the deli. Three officers, all white or Hispanic males wearing navy blue uniforms, exited the vehicle and approached § 87(2)(b) who asked them what was going on. The officers did not respond. § 87(2)(b) told the officers that they were not legally allowed to stop and frisk civilians and that he did not give them permission to frisk him. Either the driver or the front passenger officer stated that he could do what he wanted. The driver then stated that they were doing this because § 87(2)(b) looked like a “fucking dickhead.” While standing in the middle of the road, the driver patted down § 87(2)(b)s arms. Then all three officers patted down § 87(2)(b)s pants over his pockets, backside, and legs. The front passenger seat officer entered § 87(2)(b)s pants pockets without removing his wallet. Another officer entered § 87(2)(b)s jacket pockets; § 87(2)(b) did not recall which officer this was. § 87(2)(b) then asked all three officers, who were standing a few feet away, for their names and shield numbers. None of the officers said anything or provided their names or shield numbers. No officer gave § 87(2)(b) a business card. The officers then got into their vehicle and drove away. The incident lasted less than five minutes.

The investigation did not obtain footage of the incident. During a phone call with J&R Super Deli, staff stated that no surveillance footage was available **(19 Board Review)**. A request for NYCHA surveillance footage returned negative results as the footage was expired **(20-21 Board Review)**. Requests for BWC footage had negative results **(12-13 Board Review)**.

Based on Roll Calls, vehicle descriptions, Automatic Vehicle Location (AVL) logs, and NYPD officer photographs, the investigation identified the subject officers as Sgt. Duran, PO Saline, and PO Brennan, who were driving vehicle 253, an unmarked 2020 black Ford Fusion **(02 Board Review)**. The AVL Log for vehicle 253 shows the vehicle turning left at 11:24 P.M. from East 169<sup>th</sup> Street onto Washington Avenue as its average speed slows to 0.74 miles per hour **(03 Board Review)**. The vehicle remains at that corner until 11:26 P.M., when it drives south on Washington Avenue at approximately 15.84 miles per hour.

Sgt. Duran testified that on the incident date he, PO Brennan, and PO Saline were assigned to Bronx Public Safety, which involves patrolling high crime areas to combat gun violence and violent crime **(04 Board Review)**. He did not independently recall where they were at the time of the incident, nor did he recall any specific conditions present that night or whether they were investigating any specific crimes. He did not recall where each officer was situated inside the vehicle. He was familiar with the corner of East 169<sup>th</sup> Street and Washington Avenue but did not recall being there on the incident date. He did not recall stopping, frisking, or otherwise interacting with § 87(2)(b) or any civilian or seeing his partners do so. He did not recall failing to explain the reason for a stop to § 87(2)(b) or any civilian that night. He did not tell § 87(2)(b) that he looked like a “fucking dickhead” or hear

another officer do so. He did not refuse to provide § 87(2)(b) or any civilian with his name or shield number, nor did he recall seeing his partners do so. He did not recall if he provided § 87(2)(b) with a business card. When shown a photo of § 87(2)(b) Sgt. Duran stated that he did not recognize him or recall interacting with him on the incident date. After viewing the AVL log for vehicle 253, Sgt. Duran acknowledged that he was at the incident location at the incident time but said that he did not recall what he was doing there. As he did not recall the incident, he did not know why he did not activate his BWC or create a memo book entry.

PO Saline's and PO Brennan's testimonies were consistent with Sgt. Duran's with the following exceptions: both stated that on the incident date, PO Saline was the driver, PO Brennan was in the front passenger seat, and Sgt. Duran was in the back seat (**05-06 Board Review**). PO Brennan recalled patrolling the 42<sup>nd</sup> Precinct on the incident date but did not recall any specific conditions in the area or any specific police actions that he or his partners took.

Requests for warrant audits and arrest warrants, bench warrants, or I-cards for § 87(2)(b) returned negative results (**07-09 Board Review**). Sgt. Duran's, PO Brennan's, and PO Saline's memo books do not contain any entries for the incident time (**10-11 Board Review**).

Given that § 87(2)(b) specified that the officer who was driving the police vehicle called him a “fucking dickhead,” and that both PO Saline and PO Brennan identified PO Saline as the vehicle operator that night, Allegations G and H are being pleaded against PO Saline. § 87(2)(g)

## Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) has been a party (14-15 Board Review).
- Sgt. Duran has been a member of service for 12 years and has been a subject in four additional cases and eight additional allegations, none of which were substantiated. § 87(2)(g)
- PO Saline has been a member of service for six years and has been a subject in 10 additional cases and 31 additional allegations, of which eight were substantiated:
  - 202002202 involved two substantiated allegations of refusal to provide shield number, as well as one substantiated allegation of a stop, frisk, search of person, and failure to provide a business card. The Board recommended charges and CTS does not yet list the NYPD penalty.
  - 202003354 involved two substantiated allegations of failure to provide shield number, and one substantiated allegation of a failure to obtain language interpretation. The Board recommended Command Discipline B and CTS does not yet list the NYPD penalty.

Four additional search of person and three additional failure to provide business card allegations have been pleaded against PO Saline. In addition to the substantiated allegations

noted above, these include two search of person allegations in 201801797, both of which were closed as alleged victim unavailable; one search of person allegation in 202002202, which was closed as unsubstantiated; and one search of person allegation in 202003354, which was closed as exonerated. § 87(2)(g)

- PO Brennan has been a member of service for four years and has been a subject in four additional cases and 19 additional allegations, of which one was substantiated:
  - 202002279 involved a substantiated seizure of property allegation. The Board recommended formalized training and CTS does not yet list the NYPD penalty. Two additional frisk allegations and two additional refusal to provide name allegations have been pleaded against PO Brennan. In 202002952, a frisk allegation was exonerated; in 202002279, a refusal to provide name allegation was unfounded; and in 202203710, frisk and refusal to provide name allegations are still under investigation. § 87(2)(g)

### Mediation, Civil, and Criminal Histories

- Mediation was not offered to § 87(2)(b) because the CCRB was not offering mediation at the time this complaint was made.
- On October 17, 2022, the investigation submitted a request to determine if a Notice of Claim was filed; confirmation from the Office of the New York City Comptroller will be forwarded upon receipt (**16 Board Review**).

- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c)
- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c)

Squad: \_\_\_\_\_ 1 \_\_\_\_\_

Investigator:	<u>Rachel Adler</u>	<u>Investigator Rachel Adler</u>	<u>10/24/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>10.24.22</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date